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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

To amend the Diplomatic Security Act of 1986 to empower diplomats to pursue vital diplomatic goals and mitigate security risks at United States Government missions abroad, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. JACOBS of California introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Diplomatic Security Act of 1986 to empower diplomats to pursue vital diplomatic goals and mitigate security risks at United States Government missions abroad, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Diplomatic Support
5 and Security Act of 2021”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

1 (1) it is a United States national security pri-
2 ority that United States Government mission per-
3 sonnel are able to fully execute their duties, includ-
4 ing—

5 (A) providing United States citizen services
6 that are often a matter of life and death in in-
7 secure places;

8 (B) meeting with foreign officials, includ-
9 ing government and nongovernment, civil soci-
10 ety, private sector, and members of the press,
11 to advance United States national security pri-
12 orities; and

13 (C) understanding, engaging, and report-
14 ing on foreign political, social, and economic
15 conditions;

16 (2) a risk-averse environment that inhibits the
17 execution of these fundamental duties undermines
18 the national security interests of the United States
19 and contributes to the further militarization of
20 United States foreign policy as military and intel-
21 ligence agencies may experience fewer security re-
22 strictions and greater risk tolerance in the wake of
23 security incidents; and

24 (3) Congress has a role to play in addressing
25 the negative impacts of an increasingly risk-averse

1 culture at the Department of State and United
2 States Agency for International Development and
3 helping to create an appropriate balance of security
4 and safety for United States diplomats and per-
5 sonnel with greater flexibility to carry out their most
6 important duties, and in removing politics from the
7 review of post-security incident evaluations.

8 **SEC. 3. ENCOURAGING EXPEDITIONARY DIPLOMACY.**

9 (a) PURPOSE.—Subsection (b) of section 102 of the
10 Diplomatic Security Act (22 U.S.C. 4801(b)) is amend-
11 ed—

12 (1) by amending paragraph (3) to read as fol-
13 lows:

14 “(3) to promote strengthened security meas-
15 ures, institutionalize a culture of learning, and, in
16 the case of apparent gross negligence or breach of
17 duty, recommend the Director General of the For-
18 eign Service investigate accountability for United
19 States Government personnel with security-related
20 responsibilities;”;

21 (2) by redesignating paragraphs (4) and (5) as
22 paragraphs (5) and (6), respectively; and

23 (3) by inserting after paragraph (3) the fol-
24 lowing new paragraph:

1 “(4) to support a culture of effective risk man-
2 agement that enables the Department of State to
3 pursue its vital goals with full knowledge that it is
4 neither desirable nor possible for the Department to
5 avoid all risks;”.

6 (b) BRIEFINGS ON EMBASSY SECURITY.—Paragraph
7 (1) of section 105(a) of the Diplomatic Security Act (22
8 U.S.C. 4804(a)) is amended—

9 (1) in the matter preceding subparagraph (A),
10 by striking “any plans to open or reopen a high risk,
11 high threat post” and inserting “progress towards
12 opening or reopening high risk, high threat posts,
13 and the risk to national security of the continued
14 closure and remaining barriers to doing so”;

15 (2) in subparagraph (A), by striking “the type
16 and level of security threats such post could encoun-
17 ter” and inserting “the risk to national security of
18 the post’s continued closure”; and

19 (3) in subparagraph (C), by inserting “the type
20 and level of security threats such post could encoun-
21 ter, and” before “security ‘tripwires’”.

22 **SEC. 4. INVESTIGATION OF SERIOUS SECURITY INCIDENTS.**

23 (a) IN GENERAL.—Section 301 of the Diplomatic Se-
24 curity Act (22 U.S.C. 4831) is amended—

1 (1) in the section heading, by striking the head-
2 ing and inserting “**INVESTIGATION OF SERIOUS**
3 **SECURITY INCIDENTS**”;

4 (2) in subsection (a)—

5 (A) by amending paragraph (1) to read as
6 follows:

7 “(1) CONVENING THE SERIOUS SECURITY INCI-
8 DENT INVESTIGATION PERMANENT COORDINATING
9 COMMITTEE PROCESS.—

10 “(A) IN GENERAL.—In any case of an inci-
11 dent involving loss of life, serious injury, or sig-
12 nificant destruction of property at, or related
13 to, a United States Government (USG) mission
14 abroad, and in any case of a serious breach of
15 security involving intelligence activities of a for-
16 eign government directed at a USG mission
17 abroad, an investigation, to be referred to as a
18 ‘Serious Security Incident Investigation’ (SSII),
19 into such incident shall be convened by the De-
20 partment of State and a report produced for
21 the Secretary of State providing a full account
22 of such incident, including—

23 “(i) whether security provisions perti-
24 nent to such incident were in place and
25 functioning;

1 “(ii) whether any malfeasance or
2 breach of duty took place that materially
3 contributed to the outcome of such inci-
4 dent; and

5 “(iii) any recommendations of relevant
6 security improvements or follow-up meas-
7 ures.

8 “(B) EXCEPTION.—Subsection (a) does
9 not apply in the case of an incident that clearly
10 involves only causes unrelated to security.”;

11 (B) in paragraph (2), by striking “Board”
12 and inserting “Serious Security Incident Inves-
13 tigation”; and

14 (C) by striking paragraph (3);

15 (3) in subsection (b)—

16 (A) in paragraph (1)—

17 (i) by striking “Except as” and all
18 that follows through “convene a Board”
19 and inserting “The Secretary of State shall
20 conduct a Serious Security Incident Inves-
21 tigation (SSII) under subsection (a) and
22 establish a subsequent process under sec-
23 tion 302 to be carried out by the ‘Serious
24 Security Incident Investigation Permanent

1 Coordinating Committee’ (SSII/PCC) es-
2 tablished pursuant to such section”; and

3 (ii) by striking “for the convening of
4 the Board”; and

5 (B) in paragraph (2), by striking “Board”
6 each place it appears and inserting “SSII/
7 PCC”; and

8 (4) in subsection (c)—

9 (A) by striking “Board” the first place
10 such term appears and inserting “Serious Secu-
11 rity Incident Investigation and begins the SSII/
12 PCC process”;

13 (B) by striking “chairman” and inserting
14 “chair and ranking member”; and

15 (C) by striking “Speaker” and all that fol-
16 lows through the period at the end of para-
17 graph (3) and inserting “chair and ranking
18 member of the Committee on Foreign Affairs of
19 the House of Representatives.”.

20 (b) CLERICAL AMENDMENT.—The table of contents
21 in section 2 of the Omnibus Diplomatic Security and
22 Antiterrorism Act of 1986 is amended by striking the item
23 relating to section 301 and inserting the following new
24 item:

“Sec. 301. Investigation of serious security incidents.”.

1 **SEC. 5. SERIOUS SECURITY INCIDENT INVESTIGATION PER-**
2 **MANENT COORDINATING COMMITTEE.**

3 (a) IN GENERAL.—Section 302 of the Diplomatic Se-
4 curity Act of 1986 (22 U.S.C. 4832) is amended to read
5 as follows:

6 **“SEC. 302. SERIOUS SECURITY INCIDENT INVESTIGATION**
7 **PERMANENT COORDINATING COMMITTEE.**

8 “(a) BUREAU OF DIPLOMATIC SECURITY RESPONSI-
9 BILITY FOR INVESTIGATIONS.—The Diplomatic Security
10 Service of the Bureau of Diplomatic Security of the De-
11 partment of State shall be responsible for conducting the
12 investigation of an incident involving loss of life, serious
13 injury, or significant destruction of property at, or related
14 to, a United States Government (USG) mission abroad
15 that may be determined to be a serious security incident
16 and providing investigative personnel and other resources
17 as may be necessary. The results of every investigation
18 of all such incidents shall be referred to the Serious Secu-
19 rity Incident Investigation Permanent Coordinating Com-
20 mittee established and convened pursuant to subsection
21 (b) for final determinations regarding whether such inci-
22 dents are serious security incidents.

23 “(b) SERIOUS SECURITY INCIDENT PERMANENT CO-
24 ORDINATING COMMITTEE.—

25 “(1) IN GENERAL.—The Secretary of State
26 shall establish and convene a committee, referred to

1 as a ‘Serious Security Incident Investigation Perma-
2 nent Coordinating Committee’ (in this title referred
3 to as the ‘SSII/PCC’), to review each incident de-
4 scribed in subsection (a) to determine, in accordance
5 with section 304, if each such incident is a serious
6 security incident. The SSII/PCC shall review the Re-
7 port of Investigation prepared under section 303(c)
8 and any other available reporting and evidence, in-
9 cluding video recordings, and shall prepare the SSII/
10 PCC Report under section 304(b).

11 “(2) COMPOSITION.—The SSII/PCC shall be
12 composed primarily of Assistant Secretary-level per-
13 sonnel or their designated representatives in the De-
14 partment of State, and shall at a minimum include
15 the following personnel:

16 “(A) A representative of the Under Sec-
17 retary of State for Management, who shall
18 serve as chair of the SSII/PCC.

19 “(B) The Assistant Secretary or des-
20 igned representative responsible for the region
21 in which the serious security incident occurred.

22 “(C) The Assistant Secretary or des-
23 igned representative for Diplomatic Security.

1 “(D) The Assistant Secretary or des-
2 signed representative for the Bureau of Intel-
3 ligence and Research.

4 “(E) An Assistant Secretary-level or des-
5 signed representative from any involved United
6 States Government department or agency.

7 “(F) Other personnel as determined nec-
8 essary or appropriate.

9 “(c) DEFINITION.—In this section, the term ‘des-
10 signed representative’ means an official of the Depart-
11 ment of State with a rank and status not lower than a
12 Deputy Assistant Secretary-level or equivalent relevant to
13 the office in which the Assistant Secretary referred to in
14 paragraph (2) is a part and who is acting on behalf of
15 the Assistant Secretary and with respect to whom the As-
16 sistant Secretary is responsible for the conduct and ac-
17 tions during the investigation process.”.

18 (b) CLERICAL AMENDMENT.—The table of contents
19 in section 2 of the Omnibus Diplomatic Security and
20 Antiterrorism Act of 1986 is amended by striking the item
21 relating to section 302 and inserting the following new
22 item:

 “Sec. 302. Serious Security Incident Investigation Permanent Coordinating
 Committee.”.

1 **SEC. 6. SERIOUS SECURITY INCIDENT INVESTIGATION**
2 **PROCESS.**

3 (a) IN GENERAL.—Section 303 of the Diplomatic Se-
4 curity Act of 1986 (22 U.S.C. 4833) is amended to read
5 as follows:

6 **“SEC. 303. SERIOUS SECURITY INCIDENT INVESTIGATION**
7 **PROCESS.**

8 “(a) INVESTIGATION PROCESS.—

9 “(1) INITIATION.—The Serious Security Inci-
10 dent Investigation process shall commence when a
11 United States Government (USG) mission reports to
12 the Secretary of State information relating to an in-
13 cident involving loss of life, serious injury, or signifi-
14 cant destruction of property at, or related to, a USG
15 mission abroad, including detailed information about
16 such incident, not later than 72 hours after the oc-
17 currence of such incident.

18 “(2) INVESTIGATION.—The Diplomatic Security
19 Service of the Bureau of Diplomatic Security of the
20 Department of State shall assemble an investigative
21 team to carry out the investigation of an incident re-
22 ported under paragraph (1). The investigation shall
23 cover the following matters with respect to such inci-
24 dent:

25 “(A) An assessment of what occurred, an
26 identification, if known, of the perpetrator sus-

1 pected of having carried out such incident, and
2 whether applicable security procedures were fol-
3 lowed.

4 “(B) If such incident was an attack on a
5 USG mission abroad, a determination regarding
6 whether security systems, security counter-
7 measures, and security procedures operated as
8 intended.

9 “(C) If such incident was an attack on an
10 individual or group of officers, employees, or
11 family members under chief of mission author-
12 ity conducting approved operations or move-
13 ments outside a USG mission, a determination
14 regarding whether proper security briefings and
15 procedures were in place and whether security
16 systems, security countermeasures, and security
17 procedures operated as intended, and whether
18 such systems, countermeasures, and procedures
19 worked to materially mitigate such attack or
20 were inadequate to mitigate any threat associ-
21 ated with such attack.

22 “(D) An assessment of whether any offi-
23 cials’ or employees’ failure to follow procedures
24 or perform their duties contributed to such inci-
25 dent.

1 “(b) REFERRAL AND RECOMMENDATION.—The in-
2 vestigative team assembled pursuant to subsection (a)(2)
3 shall—

4 “(1) in accordance with section 302(a), refer to
5 the SSII/PCC the results, including the Report of
6 Investigation under subsection (c), of each investiga-
7 tion carried out under subsection (a); and

8 “(2) make a recommendation to the SSII/PCC,
9 based upon each such investigation, regarding
10 whether the incident that is the subject of each such
11 investigation, should be determined to be a serious
12 security incident.

13 “(c) REPORT OF INVESTIGATION.—At the conclusion
14 of a Serious Security Incident Investigation under sub-
15 section (a), the investigative team shall prepare a Report
16 of Investigation and submit such Report to the SSII/PCC.
17 Such Report shall include the following elements:

18 “(1) A detailed description of the matters set
19 forth in subparagraphs (A) through (D) of sub-
20 section (a)(2), including all related findings.

21 “(2) An accurate account of the casualties, in-
22 juries, and damage resulting from the incident that
23 is the subject of the investigation.

24 “(3) A review of security procedures and direc-
25 tives in place at the time of such incident.

1 “(4) A recommendation, pursuant to subsection
2 (b)(2), regarding whether such incident should be
3 determined to be a serious security incident.

4 “(d) CONFIDENTIALITY.—The investigative team
5 shall adopt such procedures with respect to confidentiality
6 as determined necessary, including procedures relating to
7 the conduct of closed proceedings or the submission and
8 use of evidence on camera, to ensure in particular the pro-
9 tection of classified information relating to national de-
10 fense, foreign policy, or intelligence matters. The Director
11 of National Intelligence shall establish the level of protec-
12 tion required for intelligence information and for informa-
13 tion relating to intelligence personnel included in the Re-
14 port of Investigation under subsection (b). The SSII/PCC
15 shall determine the level of classification of the final report
16 prepared under section 304(b), but shall incorporate in
17 such report, to the maximum extent practicable, the con-
18 fidentiality measures referred to in this subsection.

19 “(e) INDIVIDUAL DEFINED.—In this section and sec-
20 tion 304, the term ‘individual’ means—

21 “(1) employees, as such term is defined in sec-
22 tion 2105 of title 5 (including members of the For-
23 eign Service);

24 “(2) members of the uniformed services, as
25 such term is defined in section 101(3) of title 37;

1 including an examination of the facts and circumstances
2 surrounding any serious injuries, loss of life, or significant
3 destruction of property resulting from such incident and
4 shall make the following written findings and final deter-
5 minations:

6 “(1) Whether such incident was security related
7 and is determined to be a serious security incident.

8 “(2) If such incident was an attack on a USG
9 mission abroad, whether the security systems, secu-
10 rity countermeasures, and security procedures oper-
11 ated as intended, and whether such systems, coun-
12 termeasures, and procedures worked to materially
13 mitigate such attack or were inadequate to mitigate
14 any threat associated with such attack.

15 “(3) If such incident involved an individual or
16 group of officers conducting an approved operation
17 outside a USG mission, a determination regarding
18 whether a valid process was followed in evaluating
19 such operation for approval and weighing any risks
20 associated with such operation, except that such a
21 determination shall not seek to assign accountability
22 for such incident unless the SSII/PCC determines a
23 breach of duty has occurred.

24 “(4) An assessment of the impact of intelligence
25 and information availability relating to such inci-

1 dent, and whether the USG mission was aware of
2 the general operating threat environment or any
3 more specific threat intelligence or information and
4 the extent to which such was taken into account in
5 ongoing and specific operations.

6 “(5) Such other facts and circumstances that
7 may be relevant to the appropriate security manage-
8 ment of USG missions abroad.

9 “(b) SSII/PCC REPORT.—Not later than 60 days
10 after receiving the Report of Investigation prepared under
11 section 303(b), the SSII/PCC shall submit to the Sec-
12 retary of State a SSII/PCC Report on the incident at
13 issue, including the determination and findings under sub-
14 section (a) and any related recommendations related to
15 preventing and responding to similar such incidents. Not
16 later than 90 days after receiving such SSII/PCC Report,
17 the Secretary of State shall submit such SSII/PCC Report
18 to the Committee on Foreign Relations of the Senate and
19 the Committee on Foreign Affairs of the House of Rep-
20 resentatives. Such SSII/PCC Report shall be submitted in
21 unclassified form, but may include a classified annex.

22 “(c) PERSONNEL FINDINGS.—If in the course of con-
23 ducting an investigation under section 303, the investiga-
24 tive team finds reasonable cause to believe any official or
25 employee referred to in subsection (a)(2)(D) of such sec-

1 tion has breached the duty of such official or employee,
2 or finds lesser failures on the part of an official or em-
3 ployee in the performance of his or her duties related to
4 the serious security incident at issue, the investigative
5 team shall report such to the SSII/PCC. If the SSII/PCC
6 finds reasonable cause to support a finding relating to
7 such a breach or failure, the SSII/PCC shall—

8 “(1) notify the official or employee concerned;

9 “(2) if such official or employee is employed by
10 the Department of State, transmit to the Director
11 General of the Foreign Service for appropriate ac-
12 tion such finding, together with all information rel-
13 evant to such finding; or

14 “(3) if such official or employee is employed by
15 a Federal agency other than the Department of
16 State, transmit to the head of such Federal agency
17 for appropriate action such finding, together with all
18 information relevant to such finding.”.

19 (b) CLERICAL AMENDMENT.—The table of contents
20 in section 2 of the Omnibus Diplomatic Security and
21 Antiterrorism Act of 1986 is amended by striking the item
22 relating to section 304 and inserting the following new
23 item:

“Sec. 304. Serious Security Incident Investigation Permanent Coordinating
Committee findings and report.”.

1 **SEC. 8. RELATION TO OTHER PROCEEDINGS.**

2 Section 305 of the Diplomatic Security Act of 1986
3 (22 U.S.C. 4835) is amended—

4 (1) by striking “Nothing in this title shall” and
5 inserting the following:

6 “(a) NO EFFECT ON EXISTING REMEDIES OR DE-
7 FENSES.—Nothing in this title may”; and

8 (2) by adding at the end of the following new
9 subsection:

10 “(b) FUTURE INQUIRIES.—Nothing in this title may
11 be construed to preclude the Secretary of State from con-
12 vening a follow-up public board of inquiry to investigate
13 any serious security incident if such incident was of such
14 magnitude or significance that an internal process is de-
15 termined to be insufficient to understand and investigate
16 such incident. All materials gathered during the proce-
17 dures provided under this title shall be provided to any
18 such related board of inquiry convened by the Secretary.”.

19 **SEC. 9. TRAINING FOR FOREIGN SERVICE PERSONNEL ON**
20 **RISK MANAGEMENT PRACTICES.**

21 Not later than 90 days after the date of the enact-
22 ment of this Act, the Secretary of State shall develop and
23 submit to the appropriate congressional committees a
24 strategy to train and educate Foreign Service personnel
25 on appropriate risk management practices when con-

1 ducting their duties in high risk, high threat environ-
2 ments. Such strategy shall include the following elements:

3 (1) Plans to develop and offer additional train-
4 ing courses, or augment existing courses, for For-
5 eign Service officers regarding the conduct of their
6 duties in high risk, high threat environments outside
7 of diplomatic compounds, including for diplomatic
8 personnel such as political officers, economic offi-
9 cers, consular officers, and others.

10 (2) Plans to educate Senior Foreign Service
11 personnel serving abroad, including ambassadors,
12 chiefs of mission, deputy chiefs of missions, and re-
13 gional security officers, on appropriate risk manage-
14 ment practices to employ when evaluating requests
15 for diplomatic operations in high risk, high threat
16 environments outside of diplomatic compounds.

17 **SEC. 10. SENSE OF CONGRESS REGARDING ESTABLISH-**
18 **MENT OF EXPEDITIONARY DIPLOMACY**
19 **AWARD.**

20 It is the sense of Congress that the Secretary of State
21 should—

22 (1) encourage expeditionary diplomacy, proper
23 risk management practices, and regular and mean-
24 ingful engagement with civil society at the Depart-
25 ment of State through the establishment of an an-

1 nual award to be known as the “Expeditionary Di-
2 plomacy Award” that would be awarded to officers
3 or employees of the Department; and

4 (2) establish procedures for selecting recipients
5 of such award, including any financial terms associ-
6 ated with such award.

7 **SEC. 11. PROMOTION IN THE FOREIGN SERVICE.**

8 Subsection (b) of the Foreign Service Act of 1980
9 (22 U.S.C. 4003) is amended—

10 (1) by inserting after “as the case may be,” the
11 following: “and when occupying positions for which
12 the following is, to any degree, an element of the
13 member’s duties,”;

14 (2) in paragraph (1), by striking “when occu-
15 pying positions for which such willingness and ability
16 is, to any degree, an element of the member’s du-
17 ties”;

18 (3) in paragraph (1), by striking “, or” and in-
19 serting a semicolon;

20 (4) in paragraph (2), by striking the period and
21 inserting “; or”;

22 (5) by redesignating paragraph (2) as para-
23 graph (3);

24 (6) by inserting after paragraph (1) the fol-
25 lowing new paragraph:

1 “(2) a willingness and ability to regularly and
2 meaningfully engage with civil society and other
3 local actors in-country;” and

4 (7) by inserting after paragraph (3) the fol-
5 lowing new paragraph:

6 “(4) the ability to effectively manage and assess
7 risk associated with the conduct of diplomatic oper-
8 ations.”.

9 **SEC. 12. REPORTING REQUIREMENT.**

10 Not later than 180 days after the date of the enact-
11 ment of this Act and for every 180 days thereafter for
12 the following two years, the Secretary of State shall sub-
13 mit to the appropriate congressional committees a report
14 on the Department of State’s risk management efforts, in-
15 cluding information relating to progress in implementing
16 this Act, subsection (b) of section 102 of the Diplomatic
17 Security Act (22 U.S.C. 4801), as amended by section
18 3(a) of this Act, and the following elements:

19 (1) Progress on encouraging and incentivizing
20 appropriate Foreign Service personnel to regularly
21 and meaningfully engage with civil society and other
22 local actors in-country.

23 (2) Efforts to promote a more effective culture
24 of risk management and greater risk tolerance
25 among all Foreign Service personnel, including

1 through additional risk management training and
2 education opportunities.

3 (3) Progress on efforts to incorporate the provi-
4 sions of this Act into the Foreign Affairs Manual
5 regulations and implement the Serious Security Inci-
6 dent Investigation Permanent Coordinating Com-
7 mittee (SSII/PCC) established and convened pursu-
8 ant to section 302(b) of the Diplomatic Security Act
9 (22 U.S.C. 4832), as amended by section 5 of this
10 Act, to more closely align Department of State pro-
11 cedures with how other Federal departments and
12 agencies analyze, weigh, and manage risk.

13 **SEC. 13. IMPLEMENTATION.**

14 Not later than 180 days after the date of the enact-
15 ment of this Act, the Secretary of State shall identify and
16 report to the appropriate congressional committees which
17 official of the Department of State, with a rank not lower
18 than Assistant Secretary or equivalent, will be responsible
19 for leading the implementation of this Act and the amend-
20 ments made by this Act.

21 **SEC. 14. DEFINITION.**

22 In this Act, the term “appropriate congressional com-
23 mittees” means the Committee on Foreign Affairs of the
24 House of Representatives and the Committee on Foreign
25 Relations of the Senate.